



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25747708

Date: JUN 5, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish that the Applicant met her burden of proof in establishing that she entered her marriage in good faith, resided with her U.S. citizen spouse, or was abused by her U.S. citizen spouse. In so doing, the Director emphasized that the determination of what is credible evidence is within the sole discretion of U.S. Citizenship and Immigration Services (USCIS), 8 C.F.R. 204.2(c)(2), and highlighted inconsistencies revealed through a USCIS site visit to her spouse's residence that cast doubt on the Petitioner's claims. On appeal, the Petitioner argues that the Director's adverse credibility finding is erroneous and that she has met her burden to establish eligibility for VAWA classification. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

A VAWA petitioner must establish, among other requirements, that they entered into the qualifying marriage to the U.S. citizen spouse in good faith and not for the primary purpose of circumventing the immigration laws. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). Evidence of a good faith marriage may include documents showing that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence, and experiences; birth certificates of any children born during the marriage; police, medical, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. 8 C.F.R. § 204.2(c)(2)(i), (vii). While we must consider any credible evidence

relevant to the VAWA petition, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i)

The Petitioner is a citizen and national of Nigeria who entered the United States in 2016 as a non-immigrant visitor. The Petitioner filed the current VAWA petition based on her [redacted] 2017 marriage to D-C-¹, a U.S. citizen. As stated above, the Director denied the petition, determining that the Petitioner had not demonstrated that she had entered her marriage in good faith, resided with D-C-, or been the subject of battery or extreme cruelty at the hands of D-C- as required. In addition, the Director determined that the evidence of the Petitioner's claimed shared residency with D-C- lacked credibility, and thus casted doubt on the validity of her claims. The Director highlighted that, following a USCIS site visit to the leasing office of D-C-'s residence, the testimony of the leasing manager indicated that it was "more likely than not" that D-C- did not reside with Petitioner. On appeal, the Petitioner submits a third personal statement and evidence of her spouse's criminal history. The Petitioner argues that the Director's credibility finding was arbitrary considering that the site visit to the leasing office of D-C-'s residence occurred after the couple had permanently separated. In addition, the Petitioner points to the 2020 psychosocial assessment in the record before the Director as evidence that her spouse would often leave the house and not return for long stretches of time.

Upon de novo review, based on the Petitioner's arguments on appeal, we do not agree with the Director's finding regarding credibility. The Director relies heavily on the site visit to D-C-'s place of residence after separation for the adverse credibility finding. Since the site visit took place after the claimed dates of joint residence, the testimony of the leasing manager alone is not sufficient to support an overall finding of adverse credibility or cast doubt on the remaining evidence provided by the Petitioner. Despite this determination, the Petitioner has not met her burden to establish that she entered her marriage with D-C- in good faith. The Petitioner's collective personal statements lack probative details regarding her relationship with D-C- outside of the claimed abuse, including their courtship and significant events in their marital life. In her personal statement on appeal, the Petitioner takes issue with the Director's analysis of the evidence but does not provide any additional details regarding her relationship with D-C-. The photographs presented as evidence of relationship show the Petitioner and D-C- together on two occasions other than their wedding and do not contain captions, dates, or other identifying information. The affidavits from the Petitioner's co-worker and pastor do not state that they knew D-C- or ever interacted with the Petitioner and her spouse together. The psychosocial assessment sums up the Petitioner's courtship with D-C- in one short sentence stating "[t]hey started dating and . . . he proposed to her" without any details regarding the specifics of their meeting, courtship, or other interactions. In addition, the evaluation from [redacted] Area Women's Shelter [redacted] contains similarly vague statements regarding the courtship and decision to marry. The remaining evidence, including lease agreement and some power bills, provides little insight into the Petitioner's intent in entering her relationship with D-C-. Absent probative details regarding the Petitioner's relationship with D-C-, the totality of the evidence submitted by the Petitioner is not sufficient to establish that she entered her marriage in good faith.

The Director additionally determined that the Petitioner had not established that she had been subjected to battery or extreme cruelty by or resided with D-C-, as required under section 204(a)(1)(A)(iii)(II)(dd) and (I)(bb) of the Act. We acknowledge the receipt of additional evidence

¹ We use initials to protect the privacy of individuals.

on appeal related to these grounds of eligibility including D-C-'s criminal records, however, since the Petitioner has not established that she married D-C- in good faith and that requirement is dispositive of her appeal, we decline to reach and hereby reserve the Petitioner's arguments regarding these additional grounds. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The Petitioner has not established that she married her U.S. citizen spouse in good faith. Consequently, she has not demonstrated that she is eligible for immigrant classification under VAWA

ORDER: The appeal is dismissed.